



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
1100 Commerce Street, MC4915:DAL  
Dallas, Texas 75242

June 9, 2009

Number: 201318015  
Release Date: 5/3/2013

ORG  
ADDRESS

UIL: 501.04-00

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough  
Director, Exempt Organizations, Exam

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG		<b>Year/Period Ended</b>  20XX12-20XX12- 20XX12

**LEGEND**

ORG - Organization name      XX - Date      State - state      County - county  
RA-1 & RA-2 - 1<sup>st</sup> & 2<sup>nd</sup> RA      CO-1 through CO-4 - 1<sup>st</sup> through 4<sup>th</sup> COMPANIES

**Issue:**

Should the above named organization retain their exemption under Section 501(c)(4) of the Internal Revenue Code?

**Facts:**

ORG organized on January 22, 19XX and filed as a non-profit corporation with the State of State on January 26, 19XX under the name of ORG. The stated purpose of the organization in this original filing was to provide volunteer fire or other emergencies service within the County county area. On May 22, 20XX, the organization filed amended Articles of Incorporation with the state changing its official name to ORG, Inc. The ORG charter was forfeited March 23, 20XX due to failure to file reports and paid the necessary fee. It was reinstated May 22, 20XX.

The organization filed an application for exemption under I.R.C. Section 501(c)(4) in February of 19XX. Exemption letter 948 was issued on June 10, 19XX under section 501(c)(4).

From an interview with RA-1, it was determined that the organization has carried out almost no exempt-purpose activities since its original organization in 19XX.

The organization does not maintain books and records. Its only record of receipts was a checking account with only nominal activity each year. The organization did not produce any other documentation to substantiate its activities or financial transactions. RA-1 stated that the government seized records and that all records in connection with the ORG were in the governments custody.

I contacted the CO-4 office and all records that they seized were made available to me for inspection. No flight records were found in the boxes searched. Flight times for each of the aircraft as required by FAA were not maintained. No pilot logs as required by the FAA were maintained and therefore were not in the searched records. Records were found maintained by the CO-1 for the airplane showing hours of use of the airplane and for each of its two engines. There was only one entry in the logs after the plane was purchased by ORG. It indicated that the airplane was flown 47 hours since its purchase from the CO-1 and the time of the entry. There were no logs for any of the three helicopters after their purchase by the ORG. There were substantial logs maintained by the owners prior to the ORG. Only three of the helicopters were considered air worthy and would have had time of flight information.

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From 19XX through 20XX, the organization purchased or received through donations over \$ dollars worth of equipment. Most of the equipment was purchased from the CO-2. The equipment purchased not only included several helicopters and an airplane, but also included, various other equipment to work on the above aircraft including related spare parts. Purchase invoices of helicopters and other equipment by ORG from the CO-2 were obtained along with copies of State Certificate of Title for a Truck in 20XX indicating mileage of 102,990, a Truck in 20XX (no mileage reading) and a Truck in 20XX (no mileage reading). ORG did not have any records to substantiate usage of any of these vehicles.

RA-1 filed Form AP-170-2 (State Application for Prepaid Liquefied Gas Tax Decal) on behalf of the ORG on April 23, 20XX. The decal application indicates that a 19XX vehicle for the period 0704 was driven 9,999 miles in State and taxes of \$ were paid with the form. The \$ was paid from the ORG account. No records of the business use of the vehicle were made available and RA-1 indicated that none existed.

The organization previously submitted to the CO-2 (letters were in records seized by the CO-4) a document as evidence of its community service a one-page contract between it and County to provide services for a year starting May 8, 20XX. The amount provided in the contract is \$. Organization also submitted letter it wrote to CO-3 Property Division on April 3, 20XX stating that the organization had received \$ in 20XX and \$ in 20XX as proof of funding. The organization maintained a checking account; however, the ORG only wrote a few checks each year. For the period, September 20XX through May 7, 20XX there was only one deposit for services rendered. That deposit was for \$ in connection with a search conducted by the organization.

The organization has sold many of the parts and equipment including \$ dollar worth to RA-2 in June of 20XX. Additional items were sold for \$ in January 20XX. No list of items sold or sales invoices were prepared or maintained by the ORG.

The organization purchased a glider in July 20XX for \$, made repairs (cost of repairs was not indicated or substantiated) and sold the glider in 20XX for \$ back to its manufacture as museum piece.

The organization has not documented any fire safety education or instruction for the benefit of the public or community.

According to information obtained from the State of State, the ORG are not registered with the State of State as a volunteer fire department.

When asked again about the aircraft and pilot logs, RA-1 stated that he was very bad

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about recording the activity of the aircraft, but that he had only used them for exempt purposes.

RA-1 using his name, his wife's name and the name of his Schedule C business currently has twenty-eight helicopters and airplanes. Many of the helicopters were of the same type as he purchased through the ORG. The majority of the initial monies and continuing funding for the ORG appears to be from donations by RA-1 to the ORG.

### Law and Analysis:

IRC Section 501(c)(4), provides tax exemption for civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and no part of the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

Treasury Regulation Section 1.501(c)(4)-1, states that in order to be exempt as an organization described in IRC Section 501(c)(4), an organization must be both organized and operated exclusively for social welfare.

Treasury Regulation Section 1.501(c)(4)-2(i), states that an organization will be regarded as operated exclusively for social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" as set forth in paragraph (d)(2) of section 1.501(c)(3)-1

Treasury Regulation Section 1.501(c)(3)-1(d)(2), states in part that the term "charitable" is used in the generally accepted legal sense and includes advancement of education and lessening the burdens of government.

Treasury Regulation Section 1.501(c)(3)-1(d)(3)(b), states that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Treasury Regulation Section 1.6001-1(c), states in part every organization exempt under 501(a) shall keep permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursement. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

Revenue Ruling 85-2, 1985-1CB 178, indicates that a determination of whether an organization is lessening the burdens of government requires consideration of whether

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the organization's activities are activities that a governmental unit considers its burdens, and whether such activities actually lessen such governmental burdens. A favorable working relationship between the government and the organization is strong evidence that the organization is actually lessening the burdens of government.

### **Taxpayers Position**

They have only used the equipment for exempt purposes.

### **Government's Position:**

The organization has failed to meet the operational test described in Treasury Regulation Section 1.501(c)(4).

The organization was granted its favorable determination on the basis that it would properly set-up, equip and conduct charitable activities which lessen the burdens of government and educates the public, as defined in Treasury Regulation Section 1.501(c)(3)-1(d)(2).

As stated in Treasury Regulation Section 1.501(c)(3)-1(c)(1), "an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3)." The organization cannot substantiate any meaningful exempt-purpose activities from its initial organization in 19XX to the present.

The organization arrangements or working relationships with any governmental units to provide any fire fighting or emergency services is minimal at best. The monies allocated are almost not existent and actually were provide by the ORG or RA-1 to the government entities. Therefore, it does not meet the requirements for exemption under IRC 501(c)(4), as indicated in Revenue Rulings 74-361 and 85-2.

The organization failed to be recognition as a volunteer fire department in the State of State.

The organization does not meet the required record keeping requirements set forth in I.R.C. Section 6033 and is unable to produce adequate records to substantiate its exempt-purpose activities.

Based on all facts and circumstance, it appears that this organization never operated for charitable purposes and that only individuals have benefited.

### **Conclusions:**

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This organization does not meet the operational test under IRC Section 501(c)(4). As a result, we are proposing revocation of its tax-exempt status, effective as of January 1, 20XX.